



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

April 8, 2014
1404-VS-08
Exhibit 1

Petition Number: 1404-VS-08

Subject Site Address: 18737 Joliet Road

Petitioner: Salin Bank & Trust Company

Request: The petitioner is requesting modifications to conditions of approval for previously granted variances (0506-VS-033, 0506-VS-034 and 0506-VS-035) to remove the conditions requiring the construction of a residence (greater than or equal to 3,500 square feet) to commence within two years, a Certificate of Occupancy to be issued within three years, and to remove the condition that prohibits the boarding of other horses.

Current Zoning: AG-SF1

Current Land Use: Riding Stable

Exhibits:

1. Staff Report
2. Aerial Location Map
3. 0506-VS-033, 0506-VS-034 & 0506-VS-035 – Letter of Grant
4. Petitioner's Application

Staff Reviewer: Kevin M. Todd, AICP

Zoning History: 0506-VS-033, 0506-VS-034 & 0506-VS-035

Petition History:

This petition is scheduled to receive a public hearing at the April 8, 2014, Board of Zoning Appeals meeting.

Property Location and Description:

The subject property is located at 18737 Joliet Road (the "Property"). The Property is approximately 14.09 acres+/- in size and is zoned AG-SF1. The Property is currently used as a riding stable. Adjacent properties are zoned AG-SF1 and used residentially/agriculturally.



Property History:

On June 20, 2005, the Board of Zoning Appeals approved three (3) variances of development standard which allowed the development of the existing riding stable facility on the Property (the "Prior Variances"). The variances included:

- 0506-VS-033: variance to increase the maximum height of an accessory building from 18 feet to 23 feet;
- 0506-VS-034: variance to allow the construction of the accessory building prior to starting the construction of the principal building; and,
- 0506-VS-035: variance to allow the accessory building to not be subordinate in height, width, length and bulk to the principal building.

The Board approved the variance requests with the following conditions:

1. No boarding of other horses;
2. Less than or equal to nine horses;
3. Construction of a residence to commence within two years and a Certificate of Occupancy to be issued within three years;
4. Residence greater than or equal to 3,500 square feet;
5. Fiberglass and/or asphalt shingles; and,
6. Zero Candlelighting.

When the Prior Variances were presented in 2005, the original applicant's vision was that a residential dwelling would also be built on the Property at a later date. As such, the stable facility was viewed and processed as an accessory use to the future principal residential use.

A building permit for the riding stable was issued on August 2, 2005 (05-RAC-011-440).

A building permit for a smaller storage building/living quarters was issued on November 28, 2005 (05-RAC-021-690). A permit application for a residential dwelling has not been submitted for this Property to-date.

A residence was not built within the two-year timeframe required by Condition No. 3, and now that condition can never be satisfied. Currently, the property is owned by a bank (the "Owner"), who no longer intends to build a residence on the Property. The Owner is seeking to remedy the existing zoning compliance issues so the property can be sold. Since the stable was built, the Property has been used as a riding stable, and continues in that manner today. The Owner's desire is to maintain the riding stable use, with the possibility of boarding other horses (Condition No. 1) and eliminate the conditions related to building a residence on the Property (Conditions Nos. 3 and 4).



Analysis:

At the time of the Prior Variances, it was anticipated that a residential dwelling would be constructed on the Property after the construction of the riding stable. That notion dictated how this project was processed from a zoning perspective. Consistent with the vision at the time, the Board put conditions on their approval of the Prior Variances regarding the construction of a residential dwelling. A residential dwelling has never been built on the Property, rendering the Property non-compliant with the conditions of the Prior Variances.

The 2005 applicant no longer owns the Property, and the Owner is seeking to remedy the current zoning matter (i.e., not complying with all of the 2005 conditions of approval) on the Property. Since the stable was built, the Property has been used as a riding stable, and continues in that manner today. The Owner's desire is to maintain the riding stable use, with the possibility of boarding other horses (Condition No. 1) and eliminate the conditions related to building a residence on the Property (Conditions Nos. 3 and 4).

Because the desired principal use of the Property has now changed from residential to riding stable, different zoning rules apply than what were considered in 2005. Riding stables are permitted in the AG-SF1 District as a Special Exception. This request (1404-VS-08) will consider the Special Exception criteria in the Procedural section below.

Staff recommends that any approval of this request (1404-VS-08), and any conditions thereof, replace and supersede the approval of 0506-VS-033, 0506-VS-034 and 0506-VS-035.



Procedural

Pursuant to WC 16.04.140, the Board may approve a Special Exception if it finds that:

1. *The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, or general welfare;*

Finding: It is unlikely that continuing the use of the Property as a riding stable would be detrimental to or endanger the public health, safety, morals or general welfare of the community. The Property has been used in this manner for nearly nine (9) years and there is no record of complaint over that time.

2. *The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, no substantially diminish and impair property value within the neighborhood;*

Finding: It is unlikely that continuing the use of the Property as a riding stable would be injurious to the use and enjoyment of other permitted uses in the immediate vicinity. However, allowing the boarding of horses other than the Owner's may increase traffic and noise volumes in the area. Feedback from the neighbors should help inform this matter.

3. *The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding property uses permitted in the district;*

Finding: It is unlikely that continuing the use of the Property as a riding stable would impede the normal and orderly development and improvement of surrounding property for uses permitted in the district. The surrounding area is largely agricultural in use, and a Riding Stable is listed in the Zoning Ordinance as an acceptable use by Special Exception approval.

4. *Adequate utilities, streets, drainage and other necessary facilities have been or are being provided;*

Finding: The facility is currently served by on-site well and septic systems. Over the nearly nine (9) years of operation, there has been no report to the Economic and Community Development Department of problems with utilities, streets or drainage.

5. *Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion; and*

Finding: The Property is currently served by a single driveway that is approximately eighteen (18) feet in width. There has been no report to the Economic and Community Development Department of problems with ingress and egress into this Property.



6. The special exception will be located in a district where such use is permitted and that all other requirements set forth, applicable to such special exception, will be met.

Finding: Riding stables are permitted by Special Exception in the AG-SF1 District. All other applicable zoning requirements have been met.

Recommendation

If the Board wishes to approve petition 1404-VS-08, then staff recommends the following motion:

Replace 0506-VS-033, 0506-VS-034 and 0506-VS-035 and supersede with the Special Exception approval of 1404-VS-04, with the following conditions:

1. There be no more than nine (9) horses on the Property;
2. The roof of the Riding Stable have fiberglass and/or asphalt shingles;
3. Foot-candle measurements at all property lines not exceed zero (0);
4. If any portion of the Property remains as a riding stable use, then the Property shall not be subdivided; and,
5. The Owner records an Acknowledgement of Variance with the Hamilton County Recorder's Office and returns a copy of the recorded instrument to the Economic and Community Development Department.